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91-224

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Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1991

JERRY SPARKS, PETITIONER

V

KFOA

KENTUCKIANA FOOTBALL OFFICIALS ASSOCIATION,

AND INDIVIDUAL KFOA MEMBERS NAMED IN SUIT:

RESPONDENTS

PETITION FOR WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS FOR

THE 6 th CIRCUIT

PETITION FOR CERTIORARI

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QUESTIONS PRESENTED

I HAVEN'T THE RESPONDENTS VIOLATED PETITIONER'S CLEARLY ESTABLISHED 1 st AMENDMENT RIGHT OF FREEDOM OF SPEECH WHEN THEY (MEANING THE(KFOA), PERMANENTLY BANNED YOUR PETITIONER FROM BECOMING A MEMBER OF THE KFOA, (A PUBLIC ORGANIZATION) , BASED UPON WHAT YOUR PETITIONER SAID? All the petitioner said was WHEN HE WAS ASKED BY THE assistant athletic director at Doss High School, "HOW COME I HAVEN'T SEEN YOU HERE BEFORE?" Petitioner responded, "IF you want to know the truth, we have a catholic dominated organization and I'm not Catholic!"

II HAVEN'T THE RESPONDENTS VIOLATED THE PETITIONER'S CLEARLY ESTABLISHED CONSTITIONAL RIGHT OF FREEDOM OF RELIGION, WHEN THEY PERMANENTLY BANNED YOUR PETITIONER from being a member of the KFOA, (A PUBLIC ORGANIZATION), BASED UPON THE FACT THAT THE PETITIONER IS NOT A CATHOLIC? See exhibit # 1.

III HAVEN'T THE RESPONDENTS ALSO VIOLATED section 5 of the Kentucky Constitution, the right of

RELIGIOUS FREEDOM?

IV AREN'T THE RESPONDENTS IN VIOLATION OF THE ESTABLISHMENT CLAUSE?

V IS THERE ANY BFOQ (BONA FIDE OCCUPATIONAL QUALIFICATION) THAT A man must be a "Catholic" before he can be assigned varsity football games?

VI WHEN A FOOTBALL OFFICIALS ORGANIZATION ENTERS into a written agreement with a CATHOLIC HIGH SCHOOL, NAMED PROVIDENCE , whereby the football officials association agrees in writing to allow the "CATHOLIC HIGH SCHOOL," to buy their Indiana football license for 15 men from the KFOA TO work their football games doesn't that violate the equal protection clause and the due process clause of the 14th Amendment? Shouldn't opposing coaches and players know that the officials working their game with PROVIDENCE HIGH SCHOOL, were bought and paid for by Providence High School? Doesn't the opposing coaches and players have

THE RIGHT TO KNOW THAT ALL the football officials working their game with Providence are "CATHOLIC BOYS" from Louisville, Ky, known as the KFOA? Why does only one high school, a Catholic high school, located in Southern Indiana use the KFOA AS THEIR FOOT-BALL OFFICIALS WHEN THERE ARE PLENTY OF INDIANA FOOTBALL OFFICIALS FOOTBALL OFFICIALS CREWS AVAILABLE FROM THE STATE OF INDIANA, WHERE PROVIDENCE HIGH SCHOOL IS LOCATED, willing and available to work Providence home football games?

VII DIDN'T THE US COURT OF APPEALS, 6th circuit, ACT WITH "DELIBERATE INDIFFERENCE" WHEN THEY REFUSED TO APPLY THE PROPER KRS STATUTE, AND CASE LAW TO THE FACTS IN THIS CASE? Statutory and case law are "crystal clear" that there is a 5 year statute of limitations in civil rights cases involving NON PHYSICAL INJURY, AND NOT a 1 year statute of limitations .....

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TO THE UNITED STATES COURT OF

APPEALS FOR THE 6 th CIRCUIT

PETITION FOR CERTIORARI

MAY IT PLEASE THE COURT:

This case comes to you directly from the US Court of appeals 6 th Circuit.

The petition of the appellant-petitioner respectfully pleas that a writ of certiorari be issued to review the order of the US COURT OF APPEALS, 6 th Circuit, entered on 6-10-91.

The opinion and order of the US Court of Appeals, 6 th Circuit, went against existing case law. and against EXISTING STATUTORY LAW, KRS 413.120 (2) which says there is a 5 year statute of limitations in civil rights cases involving non physical injury. The US court of Appeals incorrectly held that it was a 1 year statute of limitations in civi rights cases involving non-physical injury.

OPINION BELOW

The opinion of the US Court of Appeals, 6 th Circuit, is cited as Jerry Sparks V KFOA, KENTUCKIANA FOOTBALL OFFICIALS ASSOCIATION, 90-5871. The court of appeals held that a 1 year statute of limitations is the appropriate statute of limitations in non-physical injury civil rights casesinstead of holding that the 5 year statute of limitations is the appropriate remedy. KRS 413.120 (2) says there is a 5 year statute of limitations in civil rights cases involving non-physical injury. See also CLIFTON V MIDWAY COLLEGE 702 SW 2 835, and HINES V BOARD OF EDUCATION 492 Fed Supp. 469.

JURISDICTION

The order of the US Court of Appeals, 6 th Circuit, was entered on 4-4-90. Petition en banc issued 4-15-91, and petition en banc denied 5-28-91. Mandate issued6-10-91. This petition of Certiorari to the US Court of Appeals, 6 th Circuit,is filed within (90) days of the mandate below. This court's jurisdiction is involked under28 USC 1257 (3) and UNITED STATES V MENDENHALL 446 US 544, 64 L. Ed 2d 497, 100 S. Ct 1870. (1980)

CONSTITIONAL PROVISIONS INVOKED

The 1 st, 8 th, and 14 th amendments, namely the right of a federal and state citizen to exercise his clearly established 1 st amendment right of freedom of speech and freedom of religion. Isn't it cruel and unusual punishment under the 8 th amendment not to assign a duly qualified and certified varsity football official , varsity football games just because petitioner isn't a particular religion, "CATHOLIC?"

Your petitioner was permanently banned from a public organization, known as the KFOA, BASED

upon

what he said. All your petitioner said was, "WE HAVE A CATHOLIC DOMINATED ORGANIZATION, AND I'M NOT CATHOLIC," WHEN he was asked by an assistant athletic director at Doss High School, "HOW COME I haven't seen you here before?" Petitioner's response should be considered to be protected speech under the 1 st amendment, and should not be any legitimate reason to permanently ban your petitioner from a public organization. I believe your petitioner has the absolute right to be any religion he wants to be under our constitution of the United States, and the KFOA IS ATTEMPTing to punish the petitioner because he said something the respondents did not like and he isn't the particular religion they want him to be.

STATEMENT OF THE CASE

Appellant filed suit in Federal District Court in Louisville, Kentucky. Judge Meredith dismissed the case on the merits and granted defendant's motion for summary judgment. Appellant appealed to the UNITED STATES COURT OF APPEALS, 6 th Circuit; the court of appeals held that the case was barred by the 1 year statute of limitations.

The proper holding should have been been to apply the 5 year statute of limitations , see KRS 413.120 (2), and see CLIFTON V MIDWAY COLLEGE 702 SW 2 835, and HINES V BOARD OF EDUCATION 492 Fed Supp 469. There was no physical injury in the present case which is before this respected court.

This appeal is taken from the US Court of Appeals, 6 th Circuit to this respected court.

STATEMENT OF FACT

This is a case of first impression before this respected court. This case is a landmark case in this country involving high school sports and in particular, a football organization that officiates high school football for ALL high schools in Louisville, Kentucky, including both public and Catholic High Schools. There are 20 public high schools in Louisville, Kentucky and only 4 Catholic high schools that play high school football.

Football officials are required to obtain a state

license. The public football officials organization that officiates high school football in Louisville, Kentucky called the (KFOA) want and require that their members be a "CATHOLIC," before they will assign you varsity football games. Your petitioner is a protestant who is duly qullified in every way to be assigned varsity football games, except that petitioner is not a "CATHOLIC."

The 1 st amendment under the establishment clause, prohibits the advancement of any religion in a public organization. The KFOA IS SUPPOSE TO BE A PUBLIC ORGANIZATION which is suppose to be open to ALL PEOPLE regardless of their religion.

The "CATHOLIC BOYS" in the KFOA WANT TO DOMINATE AND CONTROL, high school football officiating in Louisville, Kentucky and they want ALL THE MONEY for officiating these high school games. The football officials are paid by both the PUBLIC AND CATHOLIC schools. Your petitioner is a KENTUCKY CITIZEN who does not want to be denied his right to officiate high school varsity football in his home city of Louisville, Kentucky,

BECAUSE YOUR PETITIONER IS NOT A CATHOLIC!

THE LAW AND THE ARGUMENT

Your petitioner, Jerry Sparks, is a certified, 14 year veteran varsity football official who for some reason cannot be assigned high school football varsity games in his home city of Louisville, Ky! A certified rating is the highest rating any football official can receive from the state of Kentucky. See exhibit # 2, for petitioner's qualifications as a football official. Petitioner has worked some of the "big games" in Maryland, Indiana, and in Eastern, Kentucky and has never had a problem officiating high school football. In addition, petitioner has worked high school football playoff games in Maryland and has worked college football in the Atlantic Coast Conference and in the Mason-Dixon Conference when he lived in Maryland. Presently, Petitioner has his own crew and works some of the "big games" in Indiana. Petitioner is a licensed football official in Indiana and in Kentucky.

The "Catholic dominated," or all Catholic KFOA

organization that officiates high school football for ALL high schools in Jefferson County Kentucky, want their members to be a "CATHOLIC." They want their members to come up thru the CSAA (Catholic School Athletic Association) and then join the KFOA, the ORGANIZATION THAT OFFICIATES HIGH SCHOOL FOOTBALL FOR ALL HIGH SCHOOL located in Louisville, Kentucky.

There is not any case law that requires a high school football official to be a "Catholic." There is not nor should there be a BFOQ (bona fide occupational qualification) that the members of the KFOA BE A CATHOLIC! See ABRAMS V BAYLOR COLLEGE OF MEDICINE 581 F. Supp. 1570, that holds not a BFOQ for doctors in a residency program in Saudi Arabia to be a non jEWS. See also WORKS V SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY 408 F. 2d 228, that holds not a BFOQ for only men to be telephone switchmen because of strenous lifting.

Is there any rational bases for requiring high school football officials in Louisville, Ken-

tucky to be a "Catholic?" Your petitioner has worked in 3 other locations as a football official and never had a problem in Maryland, Indiana, and Eastern Kentucky. Your petitioner represents a first in Louisville, Kentucky, awhite non Catholic referee, who represents a threat to the "CATHOLIC BOYS," who have a monoply on high school football officiating in Louisville, Kentucky for the past 50 years! I will guarantee you I'M as good as anyone they have, and they can't use me because I'm not Catholic!" I may not be any better than anyone that they have, but I will guarantee you I'm as good as anyone they have! Your petitioner is qualified in every way to receive varsity football game assignments from the KFOA, but they can't use me because I'm not CATHOLIC!' If respondents would try and say your petitioner is not good enough I will tell you that is nothing more than a mere "pretext" for the real reason they don't want to use your petitioner.

The KFOA SHOULD OWE TO THE PETITIONER THE $40.00 per game, for a 10 game season, times 7 years

that they have caused the petitioner to suffer emotional distress and conscious pain and suffering by not being assigned varsity football games because petitioner is not a Catholic!"Compensatory and puntive damages should be allowed for wifffully wantonly, maliciously, and intentionally violating petitioner's basic and fundamental guaranteed constitional rights for the past 7 years your petitioner has been the KFOA'S WHIPPING BOY!

The "CATHOLIC DOMINATED," KFOA, IS ATTEMPTING TO ADVANCE AND PROMOTE the catholic religion thru a public organization, known as the KFOA, WHICH IS SUPPOSE TO BE OPEN TO ALL PEOPLE regardless of their religious preference. Our constitution also requires separation of church and state and the "catholic dominated "KFOA is attempting to promote the CATHOLIC RELIGION BY REQUIRING THEIR MEMBERS TO BE CATHOLIC!

Until the KFOA WAS SUED BY YOUR PETITONER, the KFOA never advertised for new members; they obtained new members by word of mouth when one Catholic boy tells another that if you want to

officiate high school football come to our meetings! Most of the KFOA MEMBERS COME FROM ST X, Flaget, and Trinity high schools; they are Catholic school graduates.Most if not all the KFOA members are Catholic!

Please consider why your petitioner calls the KFOA a "CATHOLIC DOMINATED ORGANIZATION," that discriminates against non Catholics!

1-The KFOA WAS FOUNDED BY A CATHOLIC, KARL SCHMIDT, SOME 50 years ago. The underlining or dominate theme of this KFOA ORGANIZATION has always been "WE WANT TO REMAIN A ALL CATHOLIC OR A CATHOLIC DOMINATED ORGANIZATION."

2-While your petitioner has been attenpting to be a active member of the KFOA ORGANIZATION, he has been told by several KFOA MEMBERS THAT IF YOU WANT TO RECEIVE VARSITY GAME ASSIGNMENTS FROM this organization it is in your "BEST INTERESTS" TO BE A CATHOLIC! "! PETITIONER RESPONDED BY SAYING " I see no reason why I have to be a catholic to receive varsity football assignments!

Your petitioner is a protestant who believes in fairness and equality, rather than in domination

domination and control. Your petitioner also believes right is right and wrong is wrong! Filling the football field up with 5 "Catholic football officials," every time a public and a catholic school play each other is not only wrong it is inherently wrong!

3-During a game in which a Board of Directors member of the KFOA son was playing in, Chick DeSensi the father of the son and a KFOA MEMBER, YELLS AT THE petitioner during the game, "Sparks haven't you heard that to be a member of this organization you have to be a Catholic!" Chick Desensi, is a very strong Catholic!

4-Believe it or not the city of Louisville, Kentucky has never had a white non Catholic referee! The referee is the crew chief and he has the final say if there is an actual case or controvesy during the game. Your petitioner represents something the KFOA has never had and as evidence by their conduct they do not want, that being a white non Catholic referee.

5-The KFOA VARSITY GAME ASSIGNMENT COMMISSIONER,

Don Metzler, is a very strong Catholic. The only varsity game he assigned to your petitioner in 7 years was St X verses Manual in 1986, Metzger said in front of the entire KFOA membership (approximately 100 members), and just before he gave petitioner his varsity assignment, "THIS IS OUR BUSIEST NIGHT OF THE SEASON, AND WE HAVE TO USE EVERYBODY, HERE SPARKS HERE IS YOUR BALL GAME!" Your petitioner wanted to break his jaw for what he said as he embarrassed and humiliated me, but my game assignment was more important to me. Metzger said this because he wanted his "CATHOLIC BUDDY CLUB" to know why your petitoner was being assigned a varsity football game. Your petitioner has always had a full varsity football schedule when he worked games in Maryland, Indiana, and in Eastern Kentucky. But in Louisville, Kentucky the respondents want you to be a "Catholic," before you can be assigned any varsity games.

6-All the public school coaches, athletic directors and principals in Louisville, Kentucky will tell you that the KFOA has always been a ALL CATHOLIC

or a "CATHOLIC DOMINATED" ORGANIZATION AND they would like to see some equal representation when it comes to the religion of the football officials. Shouldn't a non catholic have the same right to officiate high school football as a "CATHOLIC?"

7-Some of the KFOA MEMBERS HAVE SIAD TO YOUR petitioner it isn't fair to discriminate against a qualified and competent football official just because he isn't CATHOLIC!" BUT if we speak out and take up for you, we are afraid we will not receive our varsity game assignments. All I wanted from this organization the KFOA, was to be treated like all other members and receive my varsity game assignments. Because of my religious preference and not based upon my ability yourpetitioner was discriminated against and his equal protection rights were violated. Petitioner is a certified football official with 14 years of officiating experience at the varsity level, who was always able, available, and willing to work varsity football games, but yet the KFOA , THRU ITS VARSITY ASSIGNMENT SECRETARY, Don Metzler, would

use"CATHOLIC MEN" sometimes with as little as 1, 2, 3 years of football experience and they were not certified football officials; they were only registered officials. At all times petitionee was able, willing and available to work these varsity games.

The KFOA WAS HOPING YOUR PETITIONER WOULD QUIT THE KFOA when they did not assign him any varsity football games; like others have done before your petitioner came along, but when your petitioner wouldn't quit , like others before him, the respondents tried another tactic in hopes of running petitioner out of the KFOA AND CONSEQUENTLY out of high school football in Louisville, Kentucky.

MORE LAW AND ARGUMENT

FREEDOM OF SPEECH ARGUMENT

In October of 1986, your petitioner was assigned to a JV game at Doss High School. The assistant athletic director walked over to your petitioner and said before the game, "HOW COME I HAVEN'T SEEN YOU BEFORE? Petitioner responded, "If you want to

know the truth we have a Catholic dominated organization and I'm not Catholic!"Several KFOA members overheard petitioner make this statement so at our very next football meeting on Monday nite, in writing (direct evidence) see exhibit #1, the KFOA did not like my religious comments regarding advancement into the KFOA, so they suspended your petitioner for 4 JV games and made the motion in writing, see exhibit # 1, to permanently ban your petitioner from the KFOA, BASED UPON WHAT YOUR PETITIONER SAID.- See HARRISON SCHOOL SCHOOL BOARD V BILL LEWIS 805 Fed 2d 310, a teacher was fired by the Superintendent of public schools because the superintendent didn't like what the teacher said, the teacher got his job back because what he said was considered to be protected speech under the first amendment. What your petitioner said in this case should be considered to be protected speech under the first amendment. Only libel, slander, obscenity, and what the court deems to be "fighting words" are not protected speech under the first amendment. The statement made by the petitioner in this case was not only the petitioner's opinion, it happens to be the truth, and no man should be punished for

telling the truth! The mere fact that the "Catholic boys" didn't like what your petitioner said does not make it unprotected speech under the first amendment.

When you apply the balancing test , my rights as a individual verses the KFOA'S DESIRE TO MAINTAIN A "CATHOLIC BUDDY CLUB", the individual rights are far superior. In every respectpetitioner is a qualified football official; he is a certified football official with 14 years of varsity football experience, licensed by the state of Kentucky and Indiana; petitioner has done nothing to jeopardize the public health, safety, and welfare of the citizens of the state of Kentucky, petitioner just isn't a Catholic. There is no case law nor any statutory authority that requires a man to be a "Catholic" before he can be assigned varsity football games. Your petitioner has worked in 3 other locations, in Maryland, Indiana, and in Eastern Kentucky, without being a Catholic, and never had a problem. Why does petitioner have to be a "Catholic" to be assigned varsity football games in his own home town of Louisville, Kentucky? In addition, Petitioner has worked

high school playoff games in Maryland, and 7 years of college football in the Mason-Dixon conference and in the Atlantic Coast Conference without being a "Catholic." Presently, your petitioner officiates high school football in Indiana, without being a Catholic.

It is also in the best interests of the public schools that all the football officials not be "Catholic." Yes, it is true that every time a public school plays a Catholic school they receive 5 "Catholic Boys" to do their ballgame, when there are non Catholics available to work those games. That is not only wrong,it is inherently wrong," and gives the impression of a "great impropriety." In 50 years the City of Louisville, Kentucky has never had a white non Catholic referee, a classificiation your petitioner represents.

The public schools have had the deck stacked against them for a long time. As one public school coach said, "we have to win by 2 touchdowns in order to beat the "Catholic schools Trinity and St. X!That statement was made by Jim Jordan, coach at Male High School in Louisville, Kentucky.

Some additional reasons why the KFOA IS A "CATHOLIC DOMINATED " organization that discriminate against non catholics.

8-All of your officers are Catholic.

The general membership is over 98% Catholic.

9-Every time a public school plays a Catholic school in football they receive "5 Catholic boys" to do the ball game! That gives the impression of a very great impropriety! The KFOA KNOWS THE FOOTBALL OFFICIALS ARE "all catholic", or a very strong Catholic dominated organization; some coaches, athletic directors, and principals know it and want something done about this exptreme and outrageous conduct, but the players and the fans are not suppose to know that everytime a public school plays a Catholic school they receive "5 Catholic boys" to do their game! I would hope that this extreme and outrageous conduct ," will not be tolerated by this respected court. This extreme and outrageous conduct should shock the conscious of every member of this court. Yes, all of your varsity football game officials are Catholic!

10-All of your football observers are Catholic.

These are X KFOA members who are responsible for evaluating new talent and transfers that come into the KFOA, from other officiating organizations.

11-The KFOA even has a HALL OF FAME for high school football officials who officiated in the KFOA! ALL OF THOSE HALL OF FAME MEMBERS ARE CATHOLIC!

12-They even sell RAFFLE TICKETSat our weekly football meetings and everybody receives raffle tickets to sell except your petitioner!

13-On at least 3 different occassions petitioner had to fight his way down a long hall way to attend his weekly football meeting. The KFOA had a guard STANDING AT THE DOOR of a public building and when the petitioner arrived he was told "Mr. Sparks, we would not like for you to attend our meeting .tonight." Your petitioner responded, I'm a member and I have a right to attend our meetings. " Once petitioner was inside the meeting room, no one said anything to him. We have policemen and

lawyers who are members of the KFOA. The reason the KFOA did not want petitioner to attend those meetings is because they were afraid he might hear soumething he wasn't suppose to hear. On several different occasions , petition over-heard one "Catholic" and a KFOA MEMBER, SAY, "WE screwed so and so team, and each time it was the public school that got screwed by the call or no call that were made by the KFOA football officials. Players and coaches work to hard to have the game taken away from them by some KFOA football officials that want to dominate and control high school football officiating in Louisville, Ky.

14-At our weekly football meetings during football season we would have panel discussions in front of the general membership about various rules and play situations, and everyone got to be on a panel except your petitoner.

15-During our weekly meetings during football season, we would break down by position and have our own individual position discussions. Everyone was assigned to a position group except your petitioner.

Petitioner was suppose to get the message that we don't want you in our "CATHOLIC BUDDY CLUB." Even though we officiate high school football for all high schools in Jefferson County in Louisville Kentucky, which includes 20 public schools and only 4 "Catholic Schools."

In Louisville, Kentucky we have a "Catholic High School, Trinity High School, that has a 47 game win streak. I will tell you in all honesty and sincerity that some of those victories are not only tainted they are very tainted because every-time Trinity plays football in Louisville, Kentucky they receive "5 Catholic Boys" to do their ballgame.! Yes, all the game football officials are "Catholic!" That is not by accident, that is by design!Believe me, that makes a diff-erence in the outcome of a ballgame."

16-Once your petitioner learned that all the members of the KFOA WERE CATHOLIC, petitioner said, to Butch Stovall, then the President of the KFOA, AND A CATHOLIC, "it isn't right that all the football officials in the KFOA ARE CATHOLIC." Stovall responded, "we like to think

we are fair!"There isn't any protestant football officials on the field who can argue that the call that went against the public school, wasn't the correct call.

The KFOA WOULD RATHER USE A CATHOLIC WHO IS NOT A CERTIFIED FOOTBAL OFFICIAL, rather than a man with 14 years of experience as a varsity football official and who is a certified football official, but petitioner isn't a "Catholic."It is more important to the KFOA TO PUT A "CATHOLIC" ON THE FIELD RATHER THAN A MAN who is a certified football official.

See CANTWELL V CONNECTICUT 60 S. Ct. 589, which holds that the freedom to hold religious beliefs is absolute. Government may not compel anyone to accept a particular creed. When the religious activities influence the public schools, whose purpose and effect is to aid religion, the ESTABLISHMENT CLAUSE has been violated. See ENGEL V VITALE 82 S. Ct 1261. The KFOA organizqtion is created and receives its power from the KENTUCKY High School Athletic Association.

By only using Catholics to officiate high school

in Louisville, Kentucky, the KFOA PURPOSE AND EFFECT is to aid religion, and therefore violates the ESTABLISHMENT CLAUSE. The establishment clause does not depend upon showing of direct governmental compulsion, and it is violated by the enactment of laws or rules which establish a official religion whether these laws or rules operate directly to coerce non observing individuals or not. See ENGEL V VITALE 370 US 421. (1962)

Your petitioner is duly qualified in every way to receive varsity football game assignments from the KFOA, EXCEPT THAT HE ISN'T A CATHOLIC!

As strong circumstantial evidence, that the KFOA is in fact a "CATHOLIC DOMINATED ORGANIZATION, OR A ALL Catholic organization, "please see exhibit # 3. This written agreement entered into by the KFOA and Providence High School, which was iniated by the KFOA, states in writing that Providence High School is suppose to pay for 15 Kentucky KFOA FOOTBALL OFFICIALS, Indiana football license. The 15 Kentucky boys will work Providence home games and Providence will pay for their Indiana football license. Any sports fan should

know that any official is suppose to be not bias and not prejudice, and don't you think that if you paid for my Indiana football license I would owe you something when I come to officiate your home football game! Needless to say, neither Providence High School or the KFOA told opposing coaches and athletic directors that play Providence at Providence , that Providence High School had purchased their Indiana football license. Providence High School is the only high school in Southern Indiana that uses the KFOA AS THEIR FOOTBALL OFFICIALS. I wonder why? Both the football coach and the athletic director at Providence live in Louisville, Kentucky and are very aware of the religious composition of the KFOA! What kind of a non bias and non prejudice officiating group would enter into such an agreement? Certainly not a non bias and non prejudice officiating group would enter into such an agreement! The basic rule for any official is not to be bias and not to be prejudice and call them like you see them! The KFOA IS ANYTHING BUT A NON BIAS ORGANIZATION SINCE ANY REASONABLE MAN CAN SEE that this organization

favors Catholics over non Catholics regardless of their officiating qualifications. Once the Indiana High School Athletic Association learned of this written agreement , see exhibit # 3, signed by Bob Fields, the athletic director at Providence and Bruce McCorkle, President of the KFOA, and a Catholic, the Indiana High School Athletic Association would not allow Providence to pay for the Indiana football license of 15 Kentucky boys to work the home games at Providence High school. If asking a high school to pay$25.00 per man times 15 for 15 men Indiana football license doesn't show bias and prejudice on the part of the KFOA, then I don't know what it takes to show bias and prejudice. Your petitioner was never suppose to get a copy of of this written agreement; someone either wanted your petitioner to know how far the KFOA would go to MAKE SURE THE "CATHOLIC SCHOOL wins the football game, or someone made a big mistake when they mailed this agreement to your petitioner. Your petitioner has worked games at Providence with his Indiana crew and has never had a problem with any of their games. Two Indiana high schools, Mitchell High School, and Lapel High Schoolwill never play Providence

again at Providence because of the screw job they received when they played at Providence with the KFOA OFFICIALS ACCORDING TO the athletic directors at Mitchell High School and Lapel High School. Of course, neither Providence High School or the KFOA EVER told the Indiana High School Athletic Association about this written agreement they had entered into.

The main requirement to be a member of the KFOA is that YOU MUST BE A CATHOLIC! If you are a qualified protestant, they try and run you out of the KFOA by not assigning you any varsity football games in hopes you will quit the KFOA organization. When that that tactic doesn't work, they (the respondents) try to find other ways to run you out of the KFOA. The fact that you are a qualified and competent football official is rrelevant and immaterial to the KFOA organization.

See WYNN V COLUMBUS MUNICIPAL SEPARATE SCHOOL DISTRICT 692 Fed Supp. 672, (1988) which held that a school district discriminated against a female coach by denying her a job as an Athletic

Director because she was not involved with football, the "dominant" and major fund raising sport at the school. The school had appointed a lesser-qualified male to the position. The court held that an employment decision affecting a protected individual and based "solely on the preferences of the employer" violates Title VII.

Even a very respected Judge on the Kentucky Court of Appeals, Judge Mike McDonald knows the KFOA IS a "CATHOLIC DOMINATED ORGANIZATION," or a all Catholic organization, BECAUSE HE COACHED at Trinity High School as an assistant coach for 12 years. Judge McDonald has said, " it isn't right what the KFOA IS DOING." This extreme and outrageous conduct of prefering Catholics over other qualified non catholics, has existed for a long time and should not be allowed to continue to exist.

In regards to using the best qualified officials, in the KFOA, we have some football officials in the KFOA , and some of them have been around for 18 years, that don't know the difference between

a muff and a fumble! The difference is a football rule and not a judgment call, and we have "Catholics in the KFOA, THAT DON'T KNOW THE difference ! These boys are kept in the KFOA simply because they are "Catholic," and part of the CATHOLIC BUDDY CLUB."

The KFOA IS NOT FOR A SECULAR PURPOSE AS they are attempting to advance the Catholic religion within a public organization. The public organization should be open to all people regardless of their religion! What should be the determining factor in determining membership into the KFOA, IS whether that person is a competent and qualified football official, and not whether he is a "Catholic or a non Catholic!"

Haven't the appellees also violated section 5 of the Kentucky Constitution, (Bill of Rights) ? Section 5 RIGHT OF RELIGIOUS FREEDOM, which states "No preferences shall ever be given by law to any religious sect, society or denomination; nor to any particular creed, mode of worship or system, of ecclesiastical policy; nor shall any person be

compelled to attend any place of worship, to contribute the erection or maintenance of any such place, or to salary or support of any minister of religion; nor shall any man be compelled to send his child to any school to which he may be conscientiously opposed; and the civil rights, privileges or capacities of noperson shall be taken away, or in anywise diminished or enlarged, on account of his belief or disbelief of any religious tenet, dogma or teaching . No human authority shall , in any case whatever, control or interfere with the rights of conscience."

The opinion of the US Court of Appeals, 6 thCircuit should be vacated as their opinion is "CLEARLY ERRONEOUS," and goes against existing case and statutory law. It appears that the US Court of Appeals, 6 th Circuit, has acted with "DELIBERATE INDIFFERENCE,"INapplying the law to the facts in this case. Existing statutory and case law is "crystal clear" that the proper statute of limitations to apply in this case is the 5 year statute of limitations and not the 1 year statute of limitations as held by the US Court of Appeals.

Your petitioner has quoted existing case law to the lower federal court and they seem to act with "TOTAL AND DELIBERATE INDIFFERENCE," as to what existing statutory and case law hold.

Petitioner has quoted CLIFTON V MIDWAY COLLEGE 702 SW 2 835 (1985) Ky. Case, and HINES V BOARD OF EDUCATION 492 F. Supp. 469, which hold that there is a 5 year statute of limitation in civil rights cases involving non physical injury. KRS (KY. Revised statute) 413.120 (2) says an action upon a liability created by statute, when no time is fixed by statute prescribing it is a 5 year statute of limitations. Your petitioner filed his cause of action 13 months after the alleged incident. See exhibit # 4, a copy of KRS 413.120 (2). The 1 year statute of limitations applies if there has been physical violence between the parties, for example when a policeman beats up a US citizen, or a car accident involving physical injury. See COLLARD V KY BOARD OF NURSING 896 F 2d 179. The statute KRS 413.120 (2) is clear , case law is clear and unambigious but evidently the US Court of Appeals for the 6th Circuit apparantly enjoys and takes great

enjoyment and satisfaction in acting in a arbitary and capricous manner, and with "DELIBERATE INDIFFERENCE." The lower federal court must enjoy making more unnecessary work for your petitioner and for the US Supreme Court. I'm sure that if the truth was known, the US Court of Appeals for the 6 th Circuit, is hoping the highest court in this country , the US Supreme Court, will not hear this case so they can get away with their "glaring and grievous error, " when they held incorrectly that there was a 1 year statute of limitations in the case before this court. Assuming the US Court of Appeals for the 6th Circuit can read, they have indeed acted with "DELIBERATE INDIFFERENCE," and contary to existing statutory and case law when they did not apply the proper law to the facts in this case.

Your petitioner is aware of several recent cases and one case in particular SPARKS V CHARACTER & FITNESS COMMITTEE 108 S. Ct Reporter 744, in which this court gave this petitioner a 8-0 vote in his favor and the US Court of Appeals for the 6th Circuit was instructed and mandated to follow a called called FORRESTER V WHITE 484 US ___,

(1988), this case holds that even Judges don't have any immunity from civil liability when they excerise an administrative function such as hiring and firing personnel, or when a mere lawyer interviews a prospective bar member and then places a letter in his file, preventing that bar applicant from being passed and without any DUE PROCESS ever being afforded to the bar applicant. Unbelievable , that with a 8-0 vote in Petitioner's favor the lower federal court did not follow the instructions and mandate of the US SUPREME COURT! They merely rubber stamped their orginal opinion, and based their opinon on a man who was not even a defendant in that case, Case # 85-5629, court of Appeals 6th Circuit case #. When lower courts cannot respect the opinion and mandate of the highest court in this country, is it any wonder that many good American People have lost faith in our legal system! The US Supreme Court is suppose to be the highest law of theland! The lower federal court acts as though it doesn't matter what the high court orders us to do, we will do what we want to do anyway! Someone should put a stop to this type of disrespectful attitude toward the highest court in this country.

Justice Sandra Day O'Connor wrote the opinion in SPARKS V CHARACTER & FITNESS COMMITTEE 108 S. Ct Reporter 744.

When the lower Federal court cannot respect the order and mandate from the highest court in this country something is wrong. When this sort of thing happens the lower court is making a mockery out of our judicial system, which causes "good American People " to lose faith in our legal system.

For the reasons previously stated, your petitioner requests this respected court when and if you find for your petitioner, to issue a writ of mandamus and a writ of prohibition to both the US 6th circuit and to the federal District Court in Louisville, Kentucky (Judge Meredith), to prevent eithercourt from doing anything other than what they are instructed and mandated to do by this court. These are extra ordinary writs, but do to the "TOTAL AND DELIBERATE INDIFFERENCE," as to prior orders issued by the US SUPREME COURT, and acting with "DELIBERATE INDIFFERENCE," as to what the law is in this case, this action now

becomes necessary and proper in light of prior actions taken by the lower court.

CONCLUSION

After you weigh all the evidence in this case,and you look at the TOTALITY OF ALL THE CIRCUMSTANCES,' you should see that the respondents have violated petitioner's clearly established 1 st amendment right of Freedom of Speech and Freedom of Religion. Both should be considered to be separate causes of action. Therefore, your petitioner is requesting this court to vacate the opinion of the US Court Of Appeals, 6 th Circuit, to reinstate this case and send this case back to the District Court, in Louisville, Kentucky (Judge Meredith), and allow the petitioner a trial on his damages for the KFOA clearly violating petitioner's clearly eatablished first amdendment right of freedom of Speech and Freedom of Religion, and to reinstate the petitioner as a member of the KFOA.

To issue a writ of mandamus and a writ of prohibition to both the District Court and the US Court of Appeals , 6th Circuit, to prohibit them from

doing anything other than what this court instructs and mandates them to do, and to grant to the petitioner any and all other relief this court deems the petitioner is entitiled to.

Petitioner respectfully requests that the respondents be required to pay all filing fees, court costs, including printing costs, incurred in producing this brief.

Respectfully Submitted,

Jerry Sparks

Jerry Sparks

113 West Southern Heights
Louisville, Ky. 40214
502 368 1435
502 582 1347

VERIFICATION

I, Jerry Sparks, the person of record and your appellant, petitioner in the above entitled matter:

I have read the foregoing petition and know the contents thereof.

I declare under the penalty of prejury under the laws of Kentucky that the foregoiing is true amd cprrect. Executed on 7-7-9; at Louisville, Kentucky.

Jerry Sparks

Jerry Sparks

EXHIBITS

1-The letter dated 10-16-86 whereby the KFOA PERMANENTLY BANNED YOUR PETITIONER FROM THE KFOA BASED UPON WHAT HE SAID. "We have a Catholic dominate organization and I'm not Catholic," is what the petitioner said to be banned from the KFOA.

2-Petitioners qualifications as a high school football official.

3-The written agreementbetween the KFOA AND Providence High School whereby the KFOA asked Providence High School to pay for 15 Kentucky KFOA FOOTBALL OFFICIALS, Indiana football license, at $25.00 per license. Please remember that football officials are suppose to be non bias and non prejudice!

4-The entire KRS STATUTE 413.120 regarding the statute of limitations. And KRS 413.140 (1) (a)

5-District Court's opinion by Judge Meredith.

6-US COURT OF APPEALS OPINION

7-Petition for en banc haring ; mandate issued 6-10-91.

EXHIBIT # 1

KENTUCKIANA

FOOTBALL OFFICIALS ASSOCIATION

1516 Hepburn Ave.

Louisville, Ky. 40202

502 584 8259

October 16, 1986

Mr. Jerry Sparks

113 West southern Heights

Louisville, Ky. 40204

RE: KFOA

Dear Jerry:

The Board after long and careful consideration of all the material presented, coupled with statement made by witnesses and your acknowledgement that you did make the remark concerning the religious affiliation needed for assignments and advancement withing this organization, has decided that your action is sufficient that it holds this organization up to disrepute.

Accordingly, the Board has decided that you be suspended for the balance of the 1986 season beginning immediately . Further, a recommendation is being made to the Board for 1987 that you not

be allowed to rejoin the KFOA ORGANIZATION.

You are also notified that your rights of appeal in this matter are as follows:

1-You should make a written request to the secretaryof your request that this decision be appealed to the full membership. This request to the secretary must be filed with the secretary within 48 hours (48) hours of receipt of the notice of appeal. Accordingly, it will be the first order of business at the next regular meeting.

Thank you,

Yours Truly,

Butch

Butch Stovall, President

Kentuckiana Football Officials Association

Exhibit # 2

Jerry Sparks's qualifications as a high school football official.

Football official-Certified-14 Years of experience

Certified official is the highest rated official from the Ky High School Athletic Association

This information taken from the 1988, 1989 Ky High School Athletic Association Handbook

Exhibit # 3

KENTUCKIANA FOOTBALL OFFICIALS ASSOCIATION

It is hereby agreed that Providence High School, (Providence), will hire and employ the KENTUCKIANA FOOTBALL OFFICIALS ASSOCIATION, (KFOA) TO OFFICIATE ALL Providence varsity, JV, and freshman football games in which Providence has the responsibility of hiring the game officials. Such agreement become effective for the 1991 football season, and shall remain in effect throughout the entire 1991 and 1992 football seasons. For each varsity football game, the KFOA WILL supply and Providence will accept, a crew of five (5) football officials. All other levels of competition will be officiated by a crew of four (4) football officials. After each football game, Providence will compensate each of the working officials in the amount that is the prevailing and accepted amount for an official in the same level of competition in the state of Kentucky. Prior to each season of competition, such amounts of compensation shall be documented by letter from the KFOA TO PROVIDENCE.

In consideration for such services by the

Exhibit # 3 -Continue

In Consideration for such services by the KFOA, PROVIDENCE HEREBY AGREES TO PAY to the KFOA A SUM OF MONEY PRIOR TO THE BEGINNING OF EACH season of competition, that will be needed to duly register a total of fifteen (15) football officials in the state of Indiana. Providence also agrees to compensate the assignment secretary for the KFOA in an amount that is the prevailing and accepted amount each Jefferson County Kentucky school pays to the Assignment Secretary for his assignment services for each year of competition. Such amounts of compensation shall be documented by letter from the KFOA TO PROVIDENCE.

Robert Fields
Providence High School
TITLE: ATHLETIC DIRECTOR
DATE SIGN: 9-7-90

Bruce McCorkle
KENTUCKIANA FOOTBALL
OFFICIALS ASSOCIATION
TITLE: PRESIDENT KFOA
DATE SIGNED 7-11-90

EXHIBIT # 4

KRS (KENTUCKY REVISED STATUTE) 413.120

LIMITATIONS OF ACTIONS

413.120. Actions to be brought within 5 years- The following actions shall be commenced within (5) years after the cause of action accrued:

(1) An action upon a contact not in writing , expressed or implied.

(2) An action upon a liability created by statute when no other time is fixed by the statute ccreating the liability.

(3) An action for a penalty or forfeiture when no time is fixed by the statute prescribing it.

(4) An action for trespass on real property or personal property.

(5) An action for the profits of or damages for withholding real or personal property

(6) An action for the taking , detaining or injuring personal property, including an action for specifici recovery.

(7) an action for an injury to the rights of the plaintiff, not arising on contract and not otherwise enumerated.

(8) An action for a bill of exchange, check,

draft, or order, or any endorsement therof, or upon a promissory note, plaaced upon the footing of a bill of exchange.

(9) An action to enforce the liability of a steamboat or other vessel.

(10) An action upon a merchant's account for goods sold and delivered, or any article charged in such store account.

(11) An action upon an account concerning the trade of merchandise between merchant and merchant or their agents.

(12) An action for relief or damages on the ground of fraud or mistake.

(13) An action to enforce the liability of bail.

(14) An action for personal injuries suffered by any person against the builder of a home or other improvements. This cause of action shall be deemed to accrue at the time of orginal occupancy of the improvements which the builder caused to be erected.

KRS 413.140 (1) (a)

This is the statute the Court of appeals 6th circuit used and it is not the proper statute.

It says, "An action for an injury to the person of the plaintiff, her husband, his wife, child, ward, apprentice or servant, is a 1 year statute of limitations. There was no physical injury suffered by your petitioner. The 1 year statute only applies for example when a police officer beats up a citizen, or a car accident involving physical injury.

EXHIBIT # 5

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF KENTUCKY AT LOUISVILLE

Civil Action No. C 88 0030 L (M)

Jerry Sparks Plaintiff

V

Kentuckiana Football Officials Association, et al Defendants

ORDER

This matter is before the court on the motion of the plaintiff, Jerry Sparks, for judgment on the pleadings, and to vacate the judgment entered on April 11, 1990. The Plaintiff assumes that this court's order was based upon thestatute of limitations argument. The court notes that the Plaintiff's claim was considered on the merits rather than being dismissed for being untimely filed. Furthermore, mere disagreement with the outcome of a motion or a case is not sufficient to require the rescusal of the judge. Title 28, USC section 144 and 455. For these reasons and those discussed in this court's memorandum the judgment of the court will stand.

IT IS HEREBY ORDERED that the motions of the

Plaintiff, Jerry Sparks, for judgment on the pleadings, for a new judge and to vacate the judgment be and hereby are OVERRULED. This is a final and appealable order, there be no just cause for delay.

DATED THIS 31 day of May , 1990.

Ronald E. Meredith

Judge

UNITED STATES DISTRICT COURT

cc: Counsel of Record

Exhibit # 6

Entered on
4-4-91

90-5871

UNITED STATES COURT OF APPEALS FOR THE 6 th CIRCUIT

Jerry Sparks, Plaintiff-Appellant

V

KFOA, ET AL, defendants, appellees

NOT RECOMMENDED for full text publication

ORDER

Before Jones, Suhrheinrich, Circuit Judges, and Feikens, Senior District Judge

Jerry Sparks, a Kentucky resident, appeals the district court's dismissal of his civil rights complaint filed pursuant to 42 USC section 1983, 1985, 1986, and 1988. This case has been refered to a panel of the court pursuant to rule 9 (a), rules of the Sixth Circuit. Upon examination of the brief and record, this panel agrees that oral argument is not needed. Fed R App P 34 (a).

Sparks is a football official who was a member of the KENTUCKIANA (KFOA), by letter dated October 16, 1986, Sparks was disciplined (permanently banned) from the KFOA, because he allegedly made a

statement that he did not receive assignments from the KFOA BECAUSE HE WAS NOT OF THE CATHOLIC FAITH AS WERE MOST IF NOT ALL OF THE KFOA MEMBERS.

Thereafter, seeking monetary relief, Sparks sued the KFOA AND its individual members alleging he was disciplined for his remarks concerning religious affiliations. Defendants KFOA and its members filed a motion to dismiss and Sparks responded. The magistrate treated the motion as one for summary judgment and recommended that the motion be granted, finding that Sparks's suit against the KFOA and its members was time barred by Kentucky's one year statute of limitations ... The district court adopted the recommendation over Sparks's objections.

On appeal, Sparks reasserts his claim that he was permanently banned from the KFOA BECAUSE he was a non Catholic in violation of his first amendment rights. Sparksalso argues that the 5 year statute of limitations period that governs civil rights actions arising inKentucky, containe in KRS 413.120 (2) was the appropriate limitation

period to apply to his civil rights action.

Upon review, ww affirm the district court's judgment, Sparks suit against the KFOA IS TIME BARRED. The one year statute of limitations contained in Ky REv. Statute 413.140 (1) a, is the limitations periodthat governs civil rights actions arising in Kentucky. See COLLARD V KY BOARD OF NURSING 896 F. 2d 179, (6 th Cir. 1990). Sparks was notified of his suspension (he was permanently banned from the KFOA), by letter dated October 16, 1986.Sparks however did not submit his complaint and his request for filing in the District court until November 30, 1987. The suit was thereafter time barred as it was not filed within 1 year after the cause of action accrued.

Accordingly, the district court's judgment is hereby affirmed ursuant to Rule 9 (b) (5).. Rule of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT

LEONARD GREEN

Clerk

Exhibit # 7

Entered on

Case # 90-5871 5-28-91

UNITED STATES COURT OF APPEALS FOR THE

SIXTH CIRCUIT

Jerry Sparks, Plaintiff, Appellant

V

KFOA, et al

BEFORE: Jones, & Suhrheinrich,, Circuit Judges;

and Feikens, Senior US District Judge

(the same 3 judges who orginally heard this case.)Naturally they are not incline to reverse their own decision.

No judge on this court having requested a vote on the suggestion for rehearing en banc, the petition for rehearing has been referred to the orginal hearing panel.

The panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the orginal submission and decision of the case. Accordingly, the petition is denied.

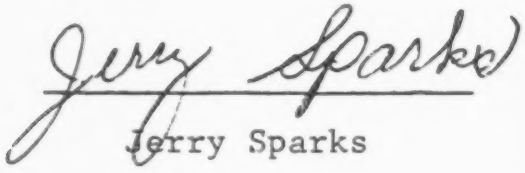
MANDATE ISSUED: June 10, 1991

Costs taken: none

ENTERED BY ORDER OF THE COURT

Leonard Green

I HEREBY CERITY that all the exhibits attached to the petition for certiorari filed herein are copies of what they purport to be.



Jerry Sparks